

E filing

COPY

1 JOHN A. RUSSO, City Attorney, SBN 129729  
2 RANDOLPH W. HALL, Chief Asst. City Atty., SBN 080142  
3 WILLIAM E. SIMMONS, Supervising Trial Atty., SBN 121266  
4 JENNIFER N. LOGUE, Deputy City Atty., SBN 241910  
5 One Frank H. Ogawa Plaza, 6th Floor  
6 Oakland, California 94612  
7 Email: jlogue@oaklandcityattorney.org  
8 Telephone: (510) 238-6524, Fax: (510) 238-6500  
9 26055:462139

10 Attorneys for Defendants,  
11 CITY OF OAKLAND and WAYNE TUCKER

12 CLYDE A. THOMPSON, SBN 72920  
13 HAAPALA THOMPSON & ABERN, LLP  
14 Park Plaza Building  
15 1939 Harrison St., Ste. 800  
16 Oakland, CA 94612  
17 Email: CThompson@htalaw.com  
18 Telephone: (510) 763-2324, Fax: (510) 273-8534

19 Attorneys for Defendants,  
20 ALAMEDA COUNTY, GREGORY AHERN,  
21 ALAMEDA COUNTY SHERIFF

22 UNITED STATES DISTRICT COURT  
23 NORTHERN DISTRICT OF CALIFORNIA

24 RICHARD RAY, an individual, SALLY RAY,  
25 an individual, and RICHARD AND SALLY  
26 RAY, husband and wife,

Plaintiffs,

v.

CITY OF OAKLAND, a municipal  
organization, WAYNE TUCKER, Chief of  
the City of Oakland Police Department,  
ALAMEDA COUNTY, GREGORY AHERN,  
ALAMEDA COUNTY SHERIFF DOE  
DEFENDANT 1, an unknown police officer,  
DOE DEFENDANT 2 an unknown police  
officer, DOE DEFENDANT 3, an unknown  
police officer, DOE 4, an unknown police  
officer, DOES 5 an unknown sheriff, DOE 6  
an unknown sheriff, and Does 7 to 75,  
inclusive,

Defendants.

Case No.

**C08-03627**  
DEFENDANTS' JOINT NOTICE OF  
REMOVAL OF ACTION (28 U.S.C.  
Section 1441)

(Alameda County Superior Court Case  
No.: RG08375364)

1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
2 DISTRICT OF CALIFORNIA:

3 PLEASE TAKE NOTICE that Defendants hereby remove to this Court the state  
4 court action described below, pursuant to 28 U.S.C. § 1441.

5 I.

6 On March 7, 2008, a Summons and Complaint was filed in the Superior Court of  
7 the State of California, County of Alameda, where this action is now pending as *Richard*  
8 *Ray, et al. v. City of Oakland, et al.*, Superior Court case no. RG08375364, (a copy of  
9 which is attached hereto as Exhibit "A"). The Complaint includes claims for deprivation of  
10 civil rights against the removing defendants arising under 42 U.S.C. § 1983. The  
11 Complaint also includes state causes of action.

12 II.

13 Defendants were served with the Summons and Complaint on July 2, 2008.  
14 Copies of the proofs of service as to each defendant filed on July 8, 2008, in state court  
15 are attached hereto as Exhibit "B".

16 A copy of City of Oakland and Wayne Tucker's answer filed on July 23, 2008, in  
17 state court is attached hereto as Exhibit "C".

18 III.

19 This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. Section  
20 1331. The action is one which may be removed to this Court pursuant to 28 U.S.C.  
21 Section 1441(b) in that the deprivation of civil rights claims arising under 42 U.S.C. §1983  
22 raise federal questions. This action may be removed to the United States District Court  
23 for the Northern District of California in that it arises out of occurrences alleged to have  
24 taken place in Alameda County, California.

25 ///

26 ///

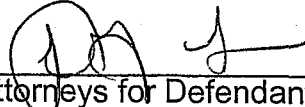
IV.

This Notice of Removal of Action is hereby filed by Defendants within thirty (30) days after service of the Summons and Complaint.

Dated: July 21, 2008

JOHN A. RUSSO, City Attorney  
RANDOLPH W. HALL, Assistant City Attorney  
WILLIAM E. SIMMONS, Supervising Trial Attorney  
JENNIFER N. LOGUE, Deputy City Attorney

By:

  
Attorneys for Defendants,  
CITY OF OAKLAND and WAYNE TUCKER

Dated: July 28, 2008

CLYDE A. THOMPSON  
HAAPALA THOMPSON & ABERN, LLP

By:

  
Attorneys for Defendants,  
ALAMEDA COUNTY, GREGORY AHERN,  
ALAMEDA COUNTY SHERIFF

**EXHIBIT A**

1 Sheila Gropper Nelson, SBN 85031  
2 LAW OFFICE OF SHEILA GROPPER NELSON  
3 456 Montgomery St., Suite 1700  
4 San Francisco, CA 94104  
5 Telephone: (415) 362-2221  
6 Facsimile: (415) 576-1422  
7 Attorney for Plaintiffs  
8 Richard Ray and  
9 Sally Ray

ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 07 2008

CLERK OF THE SUPERIOR COURT  
By Susan C. Campaño  
Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA  
10 (Unlimited Jurisdiction)

**BY FAX**

12 Richard Ray, an individual, Sally Ray, an  
13 individual, and Richard and Sally Ray,  
14 husband and wife  
15 Plaintiff

14 v.

15 City of Oakland, a municipal organization  
16 Wayne Tucker, Chief of the  
17 City of Oakland Police Department,  
18 Alameda County, Gregory Ahern  
19 Alameda County Sheriff  
20 Doe Defendant 1, an unknown  
21 police officer, Doe Defendant 2  
22 an unknown police officer, Doe  
23 Defendant 3, an unknown police officer,  
24 Doe 4, an unknown police officer, Does 5  
25 an unknown sheriff, Doe 6 an unknown  
26 sheriff, and Does 7 to 75, inclusive,  
27 Defendants.

Case Number **RG08375364**

COMPLAINT FOR DAMAGES

For Assault, Battery and Violation  
of Civil Rights et al.

JURY TRIAL DEMANDED

22 Plaintiffs, Richard Ray and Sally Ray, allege as follows:

23 GENERAL ALLEGATIONS:

24 PARTIES:

- 25 1. Plaintiff Richard Ray is an African American citizen of the City  
26 of Oakland, County of Alameda and the husband of Sally Ray.  
27 2. Plaintiff Sally Ray is an African American citizen of the City of Oakland,  
28

Complaint/Civil Rights/Assault et al.

1 County of Alameda and the wife of Richard Ray.

2 3. At all times mentioned in this complaint plaintiffs are informed and believe  
3 and thereon allege that defendant, City of Oakland ("CITY") is a municipal corporation duly  
4 organized and existing under the laws of the State of California. Under its authority the City  
5 operates the Oakland Police Department. (hereafter "the City")

6 4. At all times mentioned in this complaint plaintiffs are informed and believe  
7 and thereon allege that defendant, County of Alameda ("COUNTY") is duly organized and  
8 existing under the laws of the State of California and under its authority operates the Sheriff's  
9 Department for the County of Alameda. (hereafter "the County")

10 5. At all times mentioned in this complaint plaintiffs are informed and believe  
11 and thereon allege that Wayne Tucker was employed by defendant City as Chief of Police  
12 for the CITY. Defendant Tucker is being sued in his official capacity as Chief of police for  
13 defendant City.

14 6. At all times mentioned in this complaint plaintiffs are informed and believe  
15 and thereon allege that Defendant Gregory Ahern was employed by defendant County as  
16 Sherriff for the County. Defendant Ahern is being sued in his official capacity as County  
17 Sheriff.

18 7. Plaintiffs do not know the true names of Doe Defendant 1, an unknown  
19 police officer, and therefore sue said police officer by this fictitious name. Plaintiff is  
20 informed and believes that DOE Defendant 1 is a California resident and/or businesses duly  
21 authorized to conduct business in the State of California and acting under the color of law  
22 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the  
23 City.

24 8. Plaintiffs do not know the true names of Doe Defendant 2, an unknown  
25 police officer, and therefore sue said police officer by this fictitious name. Plaintiffs are  
26 informed and believe that DOE defendant 2 is a California residents and/or businesses duly  
27 authorized to conduct business in the State of California and acting under the color of law  
28 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the  
Complaint/Civil Rights/Assault et.al.

1 City.

2 9. Plaintiffs do not know the true names of Doe defendant 3, an unknown  
3 police officer, and therefore sue said police officer by this fictitious name. Plaintiffs are  
4 informed and believes that DOE defendant 3 is a California resident and/or businesses duly  
5 authorized to conduct business in the State of California and acting under the color of law  
6 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the  
7 City.

8 10. Plaintiffs do not know the true names of Doe defendants 4 an unknown  
9 police officer, and therefore sue said police officer by this fictitious name. Plaintiffs are  
10 informed and believes that DOE defendant 4 is a California resident and/or businesses duly  
11 authorized to conduct business in the State of California and acting under the color of law  
12 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the  
13 City.

14 11. Plaintiffs do not know the true names of DOE defendant 5, an unknown  
15 sherriff, and therefore sue said police officer by this fictitious name. Plaintiffs are informed  
16 and believes and therefore allege that DOE Defendant 5 is a California resident and/or  
17 businesses was duly authorized to conduct business in the State of California and acting  
18 under the color of law and authority. Plaintiffs are suing said sherriff in the capacity as a  
19 sherriff for the County.

20 12. Plaintiffs do not know the true names of Doe Defendants DOE 6, an  
21 unknown County Sheriff, and therefore sue said Sheriff by this fictitious name. Plaintiffs are  
22 informed and believes that DOE Defendant 6 is a California residents and/or businesses  
23 duly authorized to conduct business in the State of California and acting under the color of  
24 law and authority. Plaintiffs are suing said Sheriff in the capacity as a sheriff for the County.

25 13. Plaintiffs do not know the true names of defendants DOES 7 through 75,  
26 inclusive, and therefore sues them by these fictitious names. Plaintiff s are informed and  
27 believes and thereon allege that DOE defendants 7 through 75 are California residents  
28 and/or businesses duly authorized to conduct business in the State of California and in doing  
Complaint/Civil Rights/Assault et al.

1 the acts and omissions to act set forth herein were acting under the color of law and  
2 authority.

3 14. Unless otherwise alleged in this complaint, plaintiffs are informed and believe,  
4 and on the basis of that information and belief allege, that at all times mentioned in this  
5 complaint, defendants, named and fictitious, were the agents of their co-defendants, and  
6 in doing the things alleged in this complaint were acting within the course and scope of that  
7 agency and employment.

8 15. Plaintiffs are informed and believe and thereon allege that the defendants  
9 named as Does in the complaint identities are more fully known to defendants City and  
10 County but that said identities have been willfully and maliciously hidden from plaintiffs in  
11 furtherance of a conspiracy to avoid liability for each and all of the acts and omissions  
12 complained of herein.

13 16. Each and all of the acts relevant hereto were performed in the County of  
14 Alameda.

15 17. There is a unity of interest between the named defendants, including but not  
16 limited to Tucker and Ahern, City and County, and each of the Doe defendants, 1 through  
17 75 inclusive, such that the acts of the one are for the benefit and can be imputed to and  
18 are as the acts of the other. Plaintiffs are informed and believe, and thereon allege, that  
19 each of the Defendants named in this action was the principal, agent, servant, employer,  
20 officer, director, co-conspirator, partner or joint venturer of each other Defendant, and in  
21 committing the actions described herein below, acted within the scope of such agency,  
22 relationship, employment, conspiracy, partnership or joint venture. Plaintiffs are informed  
23 and believe, and thereon allege, that each of the Defendants approved, ratified or  
24 acquiesced in the actions and/or conduct of each other Defendant described herein.

25 VENUE AND JURISDICTION:

26 18. All of the acts and omissions to act, set forth herein, occurred in the City of  
27 Oakland, County of Alameda.

28 19. All of the acts and omissions to act, set forth herein, were done by defendants  
Complaint/Civil Rights/Assault et al.



1 in their official capacities as employees, officers and agents of defendant City and defendant  
2 County.

3 20. For state based causes of actions Plaintiffs are informed and believe that  
4 administrative claim requirements apply and that same have been complied with.

5 21. Plaintiffs are informed and believe and thereon allege that at all times  
6 relevant hereto defendants, and each of them, had actual knowledge or knew and should  
7 have known that the force being used and herein complained of was excessive and  
8 unjustified and were reckless in said use of force.

9 22. In engaging in the conduct described herein Defendant Police Chief and  
10 Officers and County Sheriff and Sheriffs, individually and in concert, one with the other, acted  
11 under the color of law and authority in the course and scope of their employment by both the  
12 City of Oakland and by the County of Alameda. In engaging in the conduct described  
13 herein the defendants, and each of them, exceeded the authority vested in them as both  
14 police officers and sheriffs, both individually and collectively, violated plaintiffs civil rights as  
15 granted to them pursuant to the constitutions of the United States and the State of  
16 California.

17 STATEMENT OF FACTS:

18 23. In or about February, 2007 plaintiff Mr. Richard Ray, a middle class middle  
19 aged African American resident of the City of Oakland, was assaulted, battered,  
20 handcuffed, falsely imprisoned and humiliated by unknown and unidentified numbers of  
21 police officers, County sheriffs and others, including but not limited to canine units and  
22 helicopter(s), at gun point, all the while engaged in conduct benign in nature, to wit,  
23 taking water to a friend. Mr. Ray while clothed in his pajamas, bath robe and bedroom  
24 slippers outside of his own residence on Miles Avenue, Oakland, California was assaulted,  
25 battered, falsely imprisoned, restrained, manhandled, and humiliated at gun point in clear  
26 view of and in front of his wife, friend, neighbors and others.

27 24. At the time of the subject incident, and without reasonable cause or justifiable  
28 belief, and in conscious and reckless disregard for Mr. Ray's right to privacy, peace and  
Complaint/Civil Rights/Assault et al.

1 enjoyment defendants, and each of them, disturbed his privacy and peace by forcibly, with  
2 gun(s) drawn, assaulting, battering and forcing him, Mr. Ray, to the ground and  
3 sidewalk, in front of his own home, forcing his arms behind his back to handcuff him, and  
4 restrained in him, in handcuffs, against his will all in front of his wife, neighbors, friends  
5 and others for an extended period of time. Defendants, and each of them, acted so to  
6 assault and batter Mr. Ray despite being informed and told, by both Mr. Ray and Mrs. Ray  
7 and others, in reasoned tones, that Mr. Ray resided in the adjacent home, suffered from  
8 back injuries and could not get down on the ground and could not put his arms behind his  
9 back without causing him severe and further physical harm.

10 25. In conscious disregard and without reasonable cause, defendants, and each  
11 of them, used excessive and unreasonable force in doing the acts or failing to act as set forth  
12 herein.

13 26. At no relevant time did the defendants, and each of them, act to determine  
14 whether the force used by them, individually and as agents one of the other, was  
15 reasonable.

16 27. At all times relevant Mr. Ray acted to mitigate his damages by informing and  
17 advising the defendants, and each of them, individually and as the agents one of the other,  
18 that he lived in the subject residence, that he had a bad back and that he could not get  
19 down onto the ground and/or put his arms behind his back without pain and injury.  
20 Defendants and each of them acted with conscious and callous disregard of the harm that  
21 would be suffered by Mr. Ray, the violation of his constitutional rights and privileges; and  
22 with a conscious disregard for the information being provided to them.

23 28. At all times relevant Mrs. Ray acted to mitigate the damages suffered by  
24 herself and her husband, by informing and advising the defendants, and each of them,  
25 individually and as the agents one of the other, that Mr. Ray lived in the subject residence,  
26 that he had a bad back and that he could not get down on the ground or put his arms  
27 behind his back without pain and injury. Defendants and each of them acted with conscious  
28 and callous disregard for the information being provided to them and willfully and

1 maliciously acted to cause substantial harm to Mr. Ray and emotional distress to Mrs. Ray  
2 by their conduct. Mrs. Ray witnessed the acts and omissions of the defendants and was put  
3 in apprehension of her well being and the well being of her husband.

4 29. At all times relevant hereto plaintiffs acted to mitigate their damages.

5 30. At all times relevant hereto defendants, and each of them, in furtherance of  
6 the conspiracy to violate the civil rights of the plaintiffs acted with a conscious, reckless and  
7 callous disregard for the civil rights of the plaintiffs and the harm that their conduct would  
8 and did create for plaintiffs.

9 31. In compliance with applicable administrative claim requirements, claim  
10 was made, as required by law, relating to each and all of the conduct complained of herein  
11 above. Response to said claim(s) denied the claim; and further denied the existence of the  
12 events of February, 2007 specifically claiming that no incident or other report exists to  
13 confirm the subject events, that no report or other documents existed to confirm the use of  
14 canine and helicopter units, and that no events occurred on Miles Avenue as reported by the  
15 plaintiffs. Plaintiffs are informed and believe and thereon allege that said denial of the claim  
16 together with the denial of the events giving rise to the claim are each, individually and  
17 collectively, continuing acts by defendants and each of them to violate plaintiffs civil rights  
18 as granted to them by the constitutions of the State of California and the United States of  
19 America.

20 32. Plaintiffs are further informed and believe and thereon allege that said claim  
21 denial continues through to and following defendants actual investigation into and interview  
22 of witness, who plaintiffs are informed and believe and thereon allege confirm the events of  
23 February, 2007. Plaintiffs are informed and believe and thereon allege that said denial and  
24 claim denial is a continuing act by defendants, and each of them, to violate plaintiffs' civil  
25 rights.

26 33. Plaintiffs are informed and believe and thereon allege that said acts and  
27 omissions to act by defendants, and each of them, include but are not limited to the use of  
28 extreme and unreasonable force by defendants and each of them, without just cause under  
Complaint/Civil Rights/Assault et al.

1 the color of law and authority; and that said force was unjustified, unreasonable and  
2 excessive and was used in wanton disregard for the harm that it would and did cause  
3 plaintiffs; and the deliberate and premeditated denial of the events of February, 2007.  
4 Plaintiffs are further informed and believe and thereon allege that the acts and omissions to  
5 act by defendants and each of them was and continues to be an abuse of the authority  
6 granted to said defendants by the law and further violated plaintiffs civil rights granted to  
7 plaintiffs by the constitutions of the State of California and the United States of America.

8 DAMAGES:

9 34. Mr. Ray has suffered assault, battery, false imprisonment, violation of his civil  
10 rights, humiliation, severe emotional distress, embarrassment, fear, terror, loss of his sense  
11 of security, dignity and pride as a citizen of the United States, and loss of consortium.

12 35. Mr. Ray continues to suffer humiliation and anxiety as a direct and proximate  
13 result of the acts and omissions by defendants and each of them. Mr. Ray has sought and  
14 received medical care relating to these damages.

15 36. The acts and omissions by the defendants and each of them continue to cause  
16 physical harm to Mr. Ray and he has sought and received medical care relating to these  
17 damages.

18 37. The conduct of the defendants, and each of them, in February, 2007 through  
19 to and including the denial of the acts and omissions by them of the February, 2007 events  
20 were and continue to be done with a reckless and callous indifference to plaintiffs'  
21 constitutionally protected rights; and were and continue to be malicious, willful, wanton and  
22 oppressive and have been done with a conscious disregard for the damage, emotional  
23 distress and humiliation that resulted from and continue to result from said acts and  
24 omissions for plaintiffs, and each of them.

25 38. As a direct and proximate result of the conduct of the defendants, and each  
26 of their conduct, through to and including but not limited to the denial of the events of  
27 February, 2007 Mr. Ray suffered pain, embarrassment, suffering, humiliation, emotional  
28 distress and loss of consortium, and found it necessary to and did engage private counsel to  
Complaint/Civil Rights/Assault et al.

1 remedy and vindicate his rights under the laws of the United States and the State of  
2 California. Plaintiff is entitled to recovery all of his attorney fees and costs of suit pursuant  
3 to the laws of the State of California and the United States including but not limited to Title  
4 42 United States Code Section 1988 et seq.

5 39. Mrs. Ray watched as her husband suffered assault, battery, false  
6 imprisonment, humiliation, violation of his civil rights and as a direct and proximate result  
7 suffered anxiety and emotional distress and violation of her own civil rights together with the  
8 humiliation of both Mr. and Mrs. Ray and as a direct and proximate result thereof suffered  
9 emotional distress and loss of consortium.

10 40. The conduct of the defendants, and each of them, in February, 2007 through  
11 to and including the denial of the February, 2007 events were and continue to be  
12 malicious, willful, wanton and oppressive and have been done with a conscious disregard  
13 for the harm said conduct did and continues to create for plaintiffs, individually and as a  
14 community.

15 41. As a direct and proximate result of the conduct of the defendants and each of  
16 them, through to and including but not limited to the denial of the February 2007 events  
17 Mrs. Ray found it necessary to and did engage private counsel to remedy and vindicate the  
18 rights of her husband and herself, under the laws of the United States and the State of  
19 California. Plaintiff Mrs. Ray is entitled to recovery all of her attorney fees and costs of suit  
20 pursuant to the laws of the State of California and the United States including but not limited  
21 to Title 42 United States Code Section 1988 et seq.

22 FIRST CAUSE OF ACTION

23 (ASSAULT)

24 42. Plaintiff Mr. Ray incorporates herein by this reference each and all of the  
25 preceding paragraphs as though fully set forth.

26 43. In or about February, 2007 Mr. Ray a middle aged middle class African  
27 American adult man, outside of his own personal residence located on Miles Avenue  
28 Oakland California, clothed in his pajamas, bath robe and bedroom slippers holding water  
Complaint/Civil Rights/Assault et al.

1 for his friend was violently and without just cause or reasonable basis assaulted, battered,  
2 falsely imprisoned and humiliated by officers and agents he is informed and believes were  
3 officers of City and sheriffs of County; he was forced to the ground, had his arms wrenched  
4 behind his back, was hand cuffed and falsely imprisoned at gun point in front of his wife,  
5 friend, neighbors and unknown others with canine units and helicopters around and about  
6 him.

7 44. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon  
8 allege that others together with them all informed the defendants and each of them that Mr.  
9 Ray resided in the home on Miles Avenue and that the force was excessive and unnecessary.  
10 Plaintiffs are informed and believe and thereon allege that defendants and each of them in  
11 conscious disregard for the harm proximately caused thereby failed and refused to cease  
12 their excessive force.

13 45. Plaintiffs are informed and believe and thereon allege that said force by  
14 defendants, and each of them, was under the color of law and authority, was unjustified;  
15 unreasonable and excessive and was used in wanton disregard for the harm that it would and  
16 did cause plaintiffs; and was an abuse of said law and authority in violation of plaintiffs civil  
17 rights granted to them by the constitutions of the State of California and the United States of  
18 America.

19 46. Plaintiff Mr. Ray is informed and believes and thereon alleges that in doing the  
20 acts and omissions to act complained of herein that the defendants acted with an intent to  
21 make contact with Mr. Ray's body and the acts or omissions to act by the defendants were  
22 neither privileged or justified under statute or common law.

23 47. In doing the acts alleged defendants and each of them intended to place  
24 plaintiff in apprehension of offensive contact with his person.

25 48. At no time did Plaintiff Mr. Ray consent voluntarily to the acts and omissions  
26 to act by the defendants and each of them.

27 49. As a direct proximate result of the acts or failure to act by defendants and  
28 each of them plaintiff Mr. Ray suffered offensive contact to his body, aggravation of existing  
Complaint/Civil Rights/Assault et al.



1 injuries, and was put in fear and apprehension of further acts by the defendants to himself  
2 and to his wife through willful and unjustified contact by defendants.

3 50. As a direct and proximate result of the acts and omissions of the defendants,  
4 each acting under the color of law and authority, plaintiff was injured in his strength, health,  
5 and activity, sustaining injury to his body, and shock to his nervous system including injury  
6 to his back and shoulders, humiliation and shame all to his general damages.

7 51. As a further, proximate result of defendants' unlawful conduct, plaintiff suffered  
8 special damages including but not limited to loss of income, medical and professional  
9 expenses, in an amount in excess of the jurisdictional limits of the court, and loss of  
10 consortium.

11 52. Plaintiffs are informed and believe and thereon allege that defendants'  
12 conduct arise from hatred and ill-will toward plaintiff, an African American man, and a  
13 desire to oppress plaintiff and with the wrongful intention of injuring plaintiff. The conduct  
14 was taken with an improper and evil motive amounting to malice, and in reckless, callous  
15 and conscious disregard of plaintiff's civil rights. Because the actions taken toward plaintiff  
16 were carried out in a cold, deliberate, callous and intentional manner in order to injure and  
17 damage plaintiff, plaintiff is entitled to recover punitive damages from defendants in an  
18 amount to dissuade such further abuse by defendants City, County, Tucker, Ahern and Does  
19 1 through 75, inclusive.

20 WHEREFORE, plaintiffs pray for relief as herein after set forth.

21 SECOND CAUSE OF ACTION

22 (BATTERY)

23 53. Plaintiffs incorporate herein by this reference each and all of the preceding  
24 paragraphs as though fully set forth.

25 54. Plaintiffs are informed and believe and thereon allege that the defendants,  
26 named and fictitious, were the agents one of the other each acting within the scope of their  
27 employment and agency and were further acting under the color of law and authority and  
28 each acted with excessive force without justification or reasonable cause.

1 55. Plaintiff, as set forth above, a middle aged middle class African American  
2 man outside of his own personal residence located on Miles Avenue, Oakland, California,  
3 clothed in his pajamas, bath rob and bedroom slippers holding water for his friend was  
4 violently and without just cause or reasonable basis assaulted, battered, falsely imprisoned  
5 and humiliated at gun point by officers and agents who he is informed and believes were  
6 officers of City and sheriffs of County; he was forced to the ground, had his arms wrenched  
7 behind his back, was hand cuffed and falsely imprisoned against his will in front of his wife,  
8 friend, neighbors and unknown others with canine units and helicopters around and about  
9 him.

10 56. In doing the acts alleged defendants intended to make contact with  
11 plaintiff, Mr. Ray's person and did in fact make such contact.

12 57. At all times mentioned plaintiff found the contact made offensive,  
13 threatening, and intimidating to his, Mr. Ray's person and his dignity and the acts or  
14 omissions to act by the defendants were neither privileged or justified under statute or  
15 common law.

16 58. Defendants and each of them knew or should have known that such acts or  
17 threats of acts would and did cause plaintiff extreme apprehension of offensive contact.

18 59. As a direct proximate result of the acts or failure to act by defendants and  
19 each of them plaintiff Mr. Ray was, in fact, placed in apprehension of offensive contact to his  
20 person and to the person of his wife in front of his wife, neighbors, friend and unknown  
21 others.

22 60. As a direct and proximate result of the acts and omissions of the defendants,  
23 each acting under the color of law and authority, plaintiff was injured in his strength, health,  
24 and activity, sustaining injury to his body, and shock to his nervous system including injury  
25 to his back and shoulders, humiliation and shame all to his general damages.

26 61. As a further, proximate result of defendants' unlawful conduct, plaintiff suffered  
27 special damages including but not limited to loss of salary, medical and professional  
28 expenses, in an amount in excess of the jurisdictional limits of the court and loss of  
Complaint/Civil Rights/Assault et al.



1 consortium.

2 62. Defendants' conduct arise from hatred and ill-will toward plaintiff, an African  
3 American , a desire to oppress plaintiff and with a conscious disregard for his  
4 constitutionally protected rights, and with the wrongful intention of injuring plaintiff. The  
5 conduct was taken with an improper and evil motive amounting to malice and in reckless ,  
6 callous, and conscious disregard of plaintiff's constitutionally protected rights. Because the  
7 actions taken toward plaintiff were carried out under the color of law and authority and in  
8 a cold, deliberate, callous and intentional manner with excessive force, without justification,  
9 plaintiff is entitled to recover punitive damages in an amount appropriate to dissuade such  
10 conduct by defendants City, County, Tucker, Ahern and Does 1 through 75, inclusive .

11 WHEREFORE, plaintiffs pray for relief as herein after set forth.

12 THIRD CAUSE OF ACTION

13 (FALSE IMPRISONMENT)

14 63. Plaintiffs incorporate herein by this reference each and all of the preceding  
15 paragraphs as though fully set forth.

16 64. Plaintiffs are informed and believe and thereon allege that the defendants,  
17 both named and fictitious, were the agents one of the other, were each acting within the  
18 scope of their employment and agency, were each acting under the color of law and  
19 authority and each acted with excessive force without justification or reasonable cause.

20 65. Plaintiff, as set forth above, a middle aged middle class African American  
21 man outside of his own personal residence located on Miles Avenue, Oakland, California,  
22 clothed in his pajamas, bath rob and bedroom slippers holding water for his friend was  
23 violently and without just cause or reasonable basis assaulted, battered, falsely imprisoned  
24 and humiliated at gun point by officers and agents he is informed and believes were officers  
25 of City and sheriffs of County; was forced to the ground, had his arms wrenched behind  
26 his back, was hand cuffed and falsely imprisoned in front of his wife, friend, neighbors and  
27 unknown others with canine units and helicopters around and about him.

28 66. In doing the acts alleged above to plaintiff Mr. Ray defendants did restrain  
Complaint/Civil Rights/Assault et al.

1 and imprison plaintiff, Mr. Ray, against his will without reasonable cause or justification and  
2 the acts or omissions to act by the defendants were neither privileged or justified under statute  
3 or common law.

4 67. As a direct and proximate result of the acts and omissions of the defendants,  
5 each acting under the color of law and authority, plaintiff was injured in his strength, health,  
6 and activity, sustaining injury to his body, and shock to his nervous system including injury  
7 to his back and shoulders, humiliation and shame all to his general damages.

8 68. As a further and proximate result of defendants' unlawful conduct, plaintiff  
9 suffered special damages including but not limited to loss of salary, medical and professional  
10 expenses, in an amount in excess of the jurisdictional limits of the court and loss of  
11 consortium.

12 69. Defendants' conduct arise from hatred and ill-will toward plaintiff, an African  
13 American and a desire to oppress plaintiff and with the wrongful intention of injuring plaintiff.  
14 The conduct was taken with an improper and evil motive amounting to malice and in  
15 conscious disregard of plaintiff's rights and abilities. Because the actions taken toward  
16 plaintiff were carried out in a cold, deliberate, callous and intentional manner and with  
17 excessive force and without justification and under the color of law in order to injure and  
18 damage plaintiff's civil rights, plaintiff is entitled to recover punitive damages from defendants  
19 City, County, Tucker, Ahern and Does 1 through 75, inclusive, in an amount according to  
20 proof and in an amount appropriate to dissuade such future conduct.

21 WHEREFORE, plaintiffs pray for relief as herein after set forth.

22 FOURTH CAUSE OF ACTION

23 (ASSAULT-42 USC SECTION 1983 ALL DEFENDANTS)

24 70. Plaintiff Mr. Ray incorporates herein by this reference each and all of the  
25 preceding paragraphs as though fully set forth.

26 71. In or about February, 2007 plaintiff, a middle aged middle class African  
27 American adult man, outside of his own personal residence located on Miles Avenue  
28 Oakland California, clothed in his pajamas, bath robe and bedroom slippers holding water  
Complaint/Civil Rights/Assault et al.

1 for his friend was violently and without just cause or reasonable basis assaulted, battered,  
2 falsely imprisoned and humiliated at gun point by officers and agents he is informed and  
3 believes were officers of City and sheriffs of County; he was thrown to the ground, had his  
4 arms wrenched behind his back, was hand cuffed and falsely imprisoned against his will in  
5 front of his wife, friend, neighbors and unknown others with canine units and helicopters  
6 around and about him.

7 72. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon  
8 allege that others, together with them, informed the defendants and each of them that Mr.  
9 Ray resided in the home on Miles Avenue and that the force was excessive and unnecessary.  
10 Plaintiffs are informed and believe and thereon allege that defendants and each of them in  
11 conscious disregard for that harm failed and refused to cease their excessive force.

12 73. Plaintiffs are informed and believe and thereon allege that said force by  
13 defendants, and each of them, under the color of law and authority, was unjustified,  
14 unprivileged, unreasonable and excessive and was used in reckless, callous, and wanton  
15 disregard for plaintiffs civil rights and the harm that it would cause plaintiffs; and was an  
16 abuse of said law and authority in violation of plaintiffs civil rights granted to them by the  
17 constitutions of the State of California and the United States of America and the acts or  
18 omissions to act by the defendants were neither privileged or justified under statute or  
19 common law.

20 74. Defendants and each of them acted under color of law and authority and  
21 without due process of law in subjecting plaintiff to detention, threat of force, force, use of  
22 excessive force, and false imprisonment all with the intent of and having the result that  
23 plaintiff Mr. Ray was deprived of certain constitutionally protected rights including but not  
24 limited to:

- 25 a] the right to be free from unreasonable search and seizures as guaranteed by
- 26 the Fourth and Fifth Amendments to the United States Constitution.
- 27 b] the right not to be deprived of life or liberty without due process of law, as
- 28 guaranteed by the Fourteenth and Fifth Amendments to the United States

1 Constitution.

2 c] the right to be free from the use of excessive force by police officers and  
3 sheriffs under the color of law and authority as guaranteed by the Fourth and  
4 Fifth Amendments to the United States Constitution.

5 d] the right to equal protection under the law as guaranteed by the Fourteenth  
6 and Fifth Amendments to the United States Constitution.

7 e] the right to be free from interference within a zone of privacy , as protected by  
8 the Fourth and Ninth Amendments to the United States Constitution.

9 WHEREFORE, plaintiffs pray for relief as herein after set forth.

10 FIFTH CAUSE OF ACTION

11 (BATTERY-42 USC SECTION 1983 ALL DEFENDANTS)

12 75. Plaintiff Mr. Ray incorporates herein by this reference each and all of the  
13 preceding paragraphs as though fully set forth.

14 76. In or about February , 2007 plaintiff , a middle aged middle class African  
15 American adult man, outside of his own personal residence located on Miles Avenue  
16 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water  
17 for his friend was violently and without just cause or reasonable basis assaulted, battered,  
18 falsely imprisoned and humiliated at gun point by officers and agents he is informed and  
19 believes were officers of City and sheriffs of County; he was forced to the ground, had his  
20 arms wrenched behind his back, was hand cuffed at gun point in front of his wife, friend,  
21 neighbors and unknown others with canine units and helicopters around and about him.

22 77. Plaintiffs, Mr. and Mrs Ray, are informed and believe and thereon allege that  
23 others, together with them, informed the defendants and each of them that Mr. Ray resided  
24 in the home on Miles Avenue and that the force was excessive and unnecessary. Plaintiffs  
25 are informed and believe and thereon allege that defendants and each of them in conscious  
26 disregard for that harm failed and refused to cease their excessive force.

27 78. Plaintiffs are informed and believe and thereon allege that said force by  
28 defendants, and each of them, under the color of law and authority, was unjustified,  
Complaint/Civil Rights/Assault et al.

1 unreasonable and excessive and was used in wanton disregard for the harm that it would  
2 cause plaintiffs; and was an abuse of said law and authority in violation of plaintiffs civil  
3 rights granted to them by the constitutions of the State of California and the United States of  
4 America and the acts or omissions to act by the defendants were neither privileged or  
5 justified under statute or common law.

6 79. Defendants and each of them acted recklessly and callously, under color of  
7 law and authority and without due process of law and in violation of plaintiff's civil rights,  
8 in subjecting plaintiff threat of force, force, use of excessive force, and false imprisonment  
9 all with the intent of and having the result that plaintiff Mr. Ray was deprived of certain  
10 constitutionally protected rights including but not limited to:

- 11 a] the right to be free from unreasonable search and seizures as guaranteed by  
12 the Fourth and Fifth Amendments to the United States Constitution.
- 13 b] the right not to be deprived of life or liberty without due process of law, as  
14 guaranteed by the Fourteenth and Fifth Amendments to the United States  
15 Constitution.
- 16 c] the right to be free from the use of excessive force by police officers and  
17 sheriffs under the color of law and authority as guaranteed by the Fourth and  
18 Fifth Amendments to the United States Constitution.
- 19 d] the right to equal protection under the law as guaranteed by the Fourteenth  
20 and Fifth Amendments to the United States Constitution.
- 21 e] the right to be free from interference within a zone of privacy, as protected by  
22 the Fourth and Ninth Amendments to the United States Constitution.

23 WHEREFORE, plaintiffs pray for relief as herein after set forth.

24 SIXTH CAUSE OF ACTION

25 (FALSE IMPRISONMENT-42 USC SECTION 1983 ALL DEFENDANTS)

26 80. Plaintiff Mr. Ray incorporates herein by this reference each and all of the  
27 preceding paragraphs as though fully set forth.

28 81. In or about February, 2007 plaintiff, a middle aged middle class African  
Complaint/Civil Rights/Assault et al.

1 American adult man, outside of his own personal residence located on Miles Avenue  
2 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water  
3 for his friend was violently and without just cause or reasonable basis assaulted, battered,  
4 falsely imprisoned and humiliated at gun point by officers and agents he is informed and  
5 believes were officers of City and sheriffs of County; he was forced to the ground, had his  
6 arms wrenched behind his back, was hand cuffed and falsely imprisoned in front of his wife,  
7 friend, neighbors and unknown others with canine units and helicopters around and about  
8 him.

9 82. Plaintiffs, Mr. and Mrs Ray, are informed and believe and thereon allege that  
10 others, together with them, informed the defendants and each of them that Mr. Ray resided  
11 in the home on Miles Avenue and that the force was excessive and unnecessary. Plaintiffs  
12 are informed and believe and thereon allege that defendants and each of them in conscious  
13 disregard for the harm failed and refused to cease their excessive force.

14 83. Plaintiffs are informed and believe and thereon allege that said force by  
15 defendants, and each of them, was under the color of law and authority, was unjustified,  
16 unreasonable and excessive and was used in wanton disregard for the harm that it would  
17 cause plaintiffs; and was an abuse of said law and authority in violation of plaintiffs civil  
18 rights granted to them by the constitutions of the State of California and the United States of  
19 America and the acts or omissions to act by the defendants were neither privileged or justified  
20 under statute or common law.

21 84. Defendants, and each of them, acted under color of law and authority and  
22 without due process of law in subjecting Mr. Ray to detention, threat of force, force, use of  
23 excessive force, and false imprisonment all with the intent of and having the result that Mr.  
24 Ray was deprived of certain constitutionally protected rights including but not limited to:

- 25 a] the right to be free from unreasonable search and seizures as guaranteed by  
26 the Fourth and Fifth Amendments to the United States Constitution.  
27 b] the right not to be deprived of life or liberty without due process of law, as  
28 guaranteed by the Fourteenth and Fifth Amendments to the United States



- 1 Constitution.
- 2 c] the right to be free from the use of excessive force by police officers and
- 3 sheriffs under the color of law and authority as guaranteed by the Fourth and
- 4 Fifth Amendments to the United States Constitution.
- 5 d] the right to equal protection under the law as guaranteed by the Fourteenth
- 6 and Fifth Amendments to the United States Constitution.
- 7 e] the right to be free from interference within a zone of privacy , as protected by
- 8 the Fourth and Ninth Amendments to the United States Constitution.

9 WHEREFORE, plaintiffs pray for relief as herein after set forth.

10 SEVENTH CAUSE OF ACTION

11 (MONELL-42 USC SECTION 1983 ALL DEFENDANTS)

12 85. Plaintiff Mr. Ray incorporates herein by this reference each and all of the

13 preceding paragraphs as though fully set forth.

14 86. In or about February, 2007 plaintiff , a middle aged middle class African

15 American adult man, while outside of his own personal residence located on Miles Avenue

16 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water

17 for a friend; was violently and without just cause or reasonable basis assaulted, battered,

18 falsely imprisoned, embarrassed, and humiliated at gun point by officers and agents he is

19 informed and believes were police officers of City and sheriffs of County; he was forced to

20 the ground, had his arms wrenched behind his back, was forcibly hand cuffed and falsely

21 imprisoned in front of his wife, friend, neighbors and unknown others, had guns and lights

22 thrust into his face all the while with canine units and helicopters crashing next to and

23 around and about his person putting him in fear of immediate harm to himself and his wife.

24 87. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon

25 allege that they each together with others, then present, informed the defendants and each

26 of them that Mr. Ray resided in the home on Miles Avenue and that the force was excessive

27 and unnecessary. Plaintiffs are informed and believe and thereon allege that defendants

28 and each of them in reckless or callous disregard for plaintiffs' individual and collective civil

Complaint/Civil Rights/Assault et al.

1 rights and in conscious disregard for the harm proximately caused thereby failed and refused  
2 to cease their use of unreasonable and excessive force.

3 88. Plaintiffs are informed and believe and thereon allege that the acts or  
4 omissions alleged herein are the direct and proximate result of the deliberate indifference of  
5 high ranking officials, including but not limited to Defendants Tucker and Ahern, and Does  
6 7 through 15, to repeated acts of misconduct by police and sheriffs which misconduct is  
7 tacitly authorized encouraged, condoned or ignored by City and County and has become  
8 policy, patterns, practices or custom of City and County in callous and reckless disregard  
9 of plaintiffs constitutionally protected rights pursuant to the United States and California  
10 Constitutions.

11 89. Plaintiffs are further informed and believe and thereon allege that said high  
12 ranking officials, including but not limited to Defendants Tucker and Ahern, and Does 7  
13 through 15, knew or reasonably should have known that Doe defendants 1 through 6 and  
14 16 through 75, and each of them were untrained or inadequately trained in use of  
15 reasonable and permissible use of force and the investigation of alleged criminal conduct  
16 such that there existed and continues to exist a reckless or callous disregard for the civil rights  
17 of plaintiffs which has become the policy, pattern, practice or custom of said City and  
18 County, individually and collectively.

19 90. Plaintiffs are informed and believe and thereon allege that the damages  
20 suffered by them were proximately caused by the customs, policies, patterns and practices  
21 of the defendants, including said indifference, all under color of law and authority, without  
22 due process of law, and in reckless or callous disregard of plaintiffs civil rights, subjecting  
23 plaintiff, Mr. Ray, to force, threat of force, detention, use of excessive force, and false  
24 imprisonment all with the intent of and having the result that plaintiff Mr. Ray was deprived  
25 of certain constitutionally protected rights including but not limited to:

26 a] the right to be free from unreasonable search and seizures as guaranteed by  
27 the Fourth and Fifth Amendments to the United States Constitution.

28 b] the right not to be deprived of life or liberty without due process of law, as  
Complaint/Civil Rights/Assault et al.



1 guaranteed by the Fourteenth and Fifth Amendments to the United States  
2 Constitution.

3 c] the right to be free from the use of excessive force by police officers and  
4 sheriffs under the color of law and authority as guaranteed by the Fourth and  
5 Fifth Amendments to the United States Constitution.

6 d] the right to equal protection under the law as guaranteed by the Fourteenth  
7 and Fifth Amendments to the United States Constitution.

8 e] the right to be free from interference within a zone of privacy , as protected by  
9 the Fourth and Ninth Amendments to the United States Constitution.

10 WHEREFORE, plaintiffs pray for relief as herein after set forth.

11 EIGHTH CAUSE OF ACTION  
12 (INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

13 91. Plaintiffs incorporate herein by this reference each and all of the  
14 preceding paragraphs as though fully set forth.

15 92. The conduct of defendants City, County, Tucker, Ahern and Does 1 through  
16 75, inclusive as set forth herein was extreme and outrageous and beyond the scope of  
17 conduct which should be tolerated by citizens in a democratic and civilized society.  
18 Defendants , and each of them, committed these extreme and outrageous acts and  
19 omissions with the intent to inflict severe mental and emotional distress upon plaintiffs.

20 93. As a direct and proximate result of defendants and each of their willful  
21 intentional and malicious conduct plaintiffs Mr. Ray and Mrs. Ray each suffered severe and  
22 extreme mental and emotional distress.

23 94. Plaintiffs Mr. Ray and Mrs. Ray each individually and collectively as husband  
24 and wife are entitled to an award of damages according to proof and exemplary as against  
25 said defendants City, County, Tucker, Ahern and Does 1 through 75, inclusive as herein  
26 after set forth.

27 WHEREFORE, plaintiffs pray for relief as herein after set forth.

28 //

NINTH CAUSE OF ACTION

(VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52 ET SEQ)

95. Plaintiffs incorporate herein by this reference each and all of the preceding paragraphs as though fully set forth.

96. The conduct of defendants City, County, Tucker, Ahern, and Doe defendants 1 through 75, inclusive, through the acts and omissions to act set forth herein while acting in the course and scope of their employment or pursuant to color of law and authority violated California Civil Code Sections 51 et seq, 52, 52.1 et seq, as Plaintiff Mr. Ray's exercise of his civil rights and enjoyment were interfered with through the use of wrongful and excess force and failure to make any proper inquiry or detention.

97. Plaintiffs are informed and believe and thereon allege that said acts and omissions to act by the defendants and each of them occurred in the course and scope of defendants Tucker, Ahern, and Doe defendants 1 through 75, inclusive, employment by City and County respectively and that said City and County are liable to plaintiffs pursuant to respondent superior.

WHEREFORE, plaintiffs pray for relief as herein after set forth.

TENTH CAUSE OF ACTION

(NEGLIGENCE)

98. Plaintiffs incorporate herein by this reference each and all of the preceding paragraphs as though fully set forth except as for any intentional malicious extreme outrageous wanton and oppressive conduct by defendants together with allegations regarding or relating to exemplary or punitive damages.

99. Defendants City, County, Tucker, Ahern, and Doe defendants 1 through 75, inclusive, through the acts and omissions to act set forth herein while acting in the course and scope of their employment, and pursuant to color of law and authority on behalf of City and County, respectively, were each subject to a duty of care to avoid causing unnecessary physical, emotional and mental harm to persons through the use of force and putting people into police or sheriff custody or control. The wrongful conduct of the defendants, Complaint/Civil Rights/Assault et al.

1 and each of them, as set forth herein did not comply with the standard of care to be  
2 exercised by reasonable persons and proximately caused plaintiffs to suffer injuries and  
3 damages as here in set forth. Pursuant to Government Code Section 815.2(a) City is  
4 vicariously liable to plaintiffs for Mr. Ray's injuries and damages as herein set forth.  
5 WHEREFORE, plaintiffs pray for relief as herein after set forth.

6 ELEVENTH CAUSE OF ACTION

7 (LOSS OF CONSORTIUM)

8 100. Plaintiff Mr. Ray incorporates herein by this reference each and all of the  
9 preceding paragraphs as though fully set forth.

10 101. In or about February, 2007 plaintiff, a middle aged middle class African  
11 American man, while outside of his own personal residence located on Miles Avenue  
12 Oakland California, clothed in his pajamas, bath robe and bedroom slippers holding water  
13 for a friend, was violently and without just cause or reasonable basis assaulted, battered,  
14 falsely imprisoned, embarrassed, and humiliated at gun point by officers and agents he is  
15 informed and believes were police officers of City and sheriffs of County; he was thrown to  
16 the ground, had his arms wrenched behind his back, was forcibly handcuffed at gun point  
17 in front of his wife, friend, neighbors and unknown others, had guns and lights thrust into his  
18 face all the while with canine units and helicopters crashing next to and around and about  
19 his person putting him in fear of immediate harm to himself and his wife.

20 102. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon  
21 allege that they each together with others then present informed the defendants and each  
22 of them that Mr. Ray resided in the home on Miles Avenue and that the force was excessive  
23 and unnecessary. Plaintiffs are informed and believe and thereon allege that defendants and  
24 each of them in reckless or callous disregard for plaintiffs' individual and collective civil rights  
25 and in conscious disregard for the harm proximately caused thereby failed and refused to  
26 cease their use of unreasonable and excessive force on plaintiff Mr. Ray.

27 103. Defendants and each of them acted under color of law and authority and  
28 without due process of law, in reckless or callous disregard of plaintiffs civil rights in and by  
Complaint/Civil Rights/Assault et al.

1 subjecting plaintiff, Mr. Ray, to threat of force, force, use of excessive force, and false  
2 imprisonment all with the intent of and having the result that plaintiff Mr. Ray suffered pain,  
3 humiliations, embarrassment and deprivation of his constitutionally protected rights in front  
4 of his wife.

5 104. As a direct and proximate result of the acts and omissions of the defendants,  
6 each acting under the color of law and authority, plaintiff Mr. Ray suffered injury in his  
7 strength, health, and activity, to his body, and shock to his nervous system including injury  
8 to his back and shoulders, humiliation, embarrassment and feelings of shame all to his  
9 general damages.

10 105. As a further proximate result of defendants' unlawful conduct, plaintiff suffered  
11 special damages including but not limited to loss of salary, medical and professional  
12 expenses.

13 106. Prior to the injuries, plaintiff Mr. Ray and his spouse were able to and did  
14 each perform their duties as a spouse one to the other. Subsequent to the acts and  
15 omissions by the defendants and each of them and the injuries proximately caused to Mr. Ray  
16 thereby Mr. Ray has been impacted in his ability to perform his duties to his spouse including  
17 but not limited to the loss of companionship, affection, solace and moral support and other  
18 marital acts in the same manner and degree as prior thereto all to Mr. Ray's damage.

19 WHEREFORE, plaintiff Mr. Ray prays for relief as herein after set forth.

20 TWELFTH CAUSE OF ACTION

21 (LOSS OF CONSORTIUM)

22 107. Plaintiff Mrs. Ray incorporates herein by this reference each and all of the  
23 preceding paragraphs as though fully set forth.

24 108. In or about February, 2007 plaintiff Mrs. Ray watched as her husband, a  
25 middle aged middle class African American adult man, while outside of his own personal  
26 residence located on Miles Avenue Oakland California, clothed in his pajamas, bath rob  
27 and bedroom slippers holding water for a friend, was violently and without just cause or  
28 reasonable basis assaulted, battered, falsely imprisoned, embarrassed, and humiliated at  
Complaint/Civil Rights/Assault et al.

1 gun point by officers and agents she is informed and believes were police officers of City  
2 and sheriffs of County; she watched as he was thrown to the ground, had his arms wrenched  
3 behind his back, was forcibly hand cuffed at gun point in front of her his wife, his friend,  
4 neighbors and unknown others, had guns and lights thrust into his face all the while with  
5 canine units and helicopters crashing next to and around and about his person putting her  
6 in fear of immediate harm to him and herself.

7 109. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon  
8 allege that they each together with others informed the defendants, and each of them, that  
9 Mr. Ray resided in the home on Miles Avenue and that the force was excessive and  
10 unnecessary. Plaintiffs are informed and believe and thereon allege that defendants and  
11 each of them in reckless or callous disregard for plaintiffs' individual and collective civil rights  
12 and in conscious disregard for the harm proximately caused thereby failed and refused to  
13 cease their use of unreasonable and excessive force on plaintiff Mr. Ray.

14 110. Defendants, and each of them, acted under color of law and authority and  
15 without due process of law, in reckless or callous disregard of plaintiffs civil rights in and by  
16 subjecting plaintiff, Mr. Ray, to threat of force, force, use of excessive force, and false  
17 imprisonment at gun point all with the intent of and having the result that plaintiff Mr. Ray  
18 suffered pain, humiliations, embarrassment and deprivation of his constitutionally protected  
19 rights in front of his wife.

20 111. Prior to the injuries suffered by plaintiff Mr. Ray he and Mrs. Ray, his spouse  
21 were able to and did each perform their duties as a spouse one to the other. Subsequent  
22 to the acts and omissions by the defendants and each of them and the injuries proximately  
23 caused to Mr. Ray, he Mr. Ray has been impacted in his ability to perform his duties to his  
24 spouse including but not limited to loss of companionship, affection, solace and moral  
25 support and other marital acts in the same manner and degree as prior thereto all to Mrs.  
26 Ray's damage. By reason thereof Mrs. Ray is informed and believes and thereon alleges that  
27 she has been permanently deprived of the consortium of her spouse, including the  
28 performance of his necessary duties, as well as his companionship, affection, solace and

1 moral support to the same extent as prior to said acts and omissions all to her damage.

2 WHEREFORE, plaintiff Mrs. Ray prays for relief as herein after set forth.

3 NOW THEREFORE, plaintiff s Mr. And Mrs. Ray demand and pray for  
4 judgment in their favor and as against defendants, and each of them, as follows:

5 A For general damages, for Mr. Ray, according to proof;

6 B. For general damages for Mrs. Ray according to proof;

7 C. For special damages for Mr. Ray according to proof;

8 D. For special damages for Mrs. Ray according to proof;

9 E. For punitive damages for Mr. Ray and Mrs. Ray;

10 F. For injunctive relief, per CC §52 et seq, enjoining City and County,  
11 individually and together, from using excess and unreasonable force of  
12 persons under color of law;

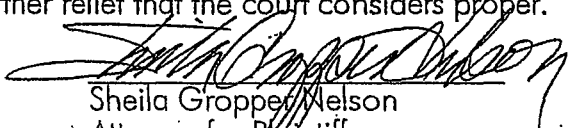
13 G. For violation of CC §51.7 et seq., pursuant to CC §52.1 punitive damages  
14 of \$25,000.00 against police officers for each offense and reasonable  
15 attorney fees;

16 H. For statutory damages and reasonable attorneys fees for violation of CC §52  
17 and 52.1 et seq.;

18 I. For fees and costs, including reasonable attorney fees as allowed by law, and  
19 costs of suit.

20 J. For such other and further relief that the court considers proper.

21 Dated 3-7-8

  
Sheila Gropper Nelson  
Attorney for Plaintiffs

23 DEMAND FOR JURY TRIAL

24 Plaintiffs hereby demand trial of this matter by jury.

25 Dated 3-7-8

  
Sheila Gropper Nelson  
Attorney for Plaintiffs

**EXHIBIT B**



POS-010

<b>ATTORNEY OR PARTY WITHOUT ATTORNEY</b> SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221 <b>ATTORNEY FOR Plaintiff</b>	<b>FOR COURT USE ONLY</b> <b>FILED</b> <b>ALAMEDA COUNTY</b>  JUL 8 2008  CLERK OF THE SUPERIOR COURT By <u>Cecilia Anchondo</u> Deputy
<b>Alameda</b> Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607	<b>CASE NUMBER:</b>  RG08375364
<b>PLAINTIFF/PETITIONER:</b> Richard Ray and Sally Ray <b>DEFENDANT/RESPONDENT:</b> City of Oakland et al	<b>Ref No. or File No.:</b> Ray
<b>PROOF OF SERVICE OF SUMMONS</b>	

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT, RESERV/

3a. Party served:

CHIEF OF THE CITY OF  
OAKLAND POLICE DEPARTMENT

4. Address where party was served:

455 7TH ST.  
OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 2:25 PM I left the documents listed in item 2 with or in the presence of:

OFFICER HOLDEN

FRONT DESK CLERK

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE



PLAINTIFF/PETITIONER:	Richard Ray and Sally Ray	CASE NUMBER:
DEFENDANT/RESPONDENT:	City of Oakland et al	RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

CHIEF OF THE CITY OF  
OAKLAND POLICE DEPARTMENT

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

a. Name: Granville Smith

b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754

c. Telephone Number: 323-526-7300

d. The fee for service was: \$91.52

e. I am:

(3) ☒ registered California process server:

(i) ☒ Independent contractor

(ii) Registration No.: 1014 Expires: 08/13/09

(iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO. REG # 1086. EXPIRES 04/15/10

Form Adopted for Mandatory Use  
Judicial Council of California POS-010  
[Rev. January 1, 2007]

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646884



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 ATTORNEY FOR Plaintiff		TELEPHONE NUMBER 415-362-2221 Ref. No. or File No. Ray	FOR COURT USE ONLY <b>FILED</b> ALAMEDA COUNTY JUL 8 2008 CLERK OF THE SUPERIOR COURT By <u>Cecilia Anchondo</u> Deputy
Insert name of court and name of judicial district and branch if any. Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607			
SHORT TITLE OF CASE: Richard Ray and Sally Ray v City of Oakland et al			
INVOICE NO.	DATE:	TIME:	DEP./DIV.
646884	07/25/08	11:15 AM	30
		CASE NUMBER: RG08375364	

## PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.

ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE, I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
 SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT, RESERVATION O

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE UNITED STATES MAIL AT: HAYWARD, CALIFORNIA, ADDRESSED AS FOLLOWS:

CHIEF OF THE CITY OF  
 OAKLAND POLICE DEPARTMENT

455 7TH ST.  
 OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.  
 1199 MONTEREY PASS ROAD  
 MONTEREY PARK, CA 91754  
 323-526-7300 FAX 323-526-7377

- d. Registered California process server
- (1) ☒ Employee or ☐ Independent Contractor
  - (2) Registration No. 08-1047
  - (3) County: SAN FRANCISCO
  - (4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

SIGNATURE

Layla Silvestre



POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221 ATTORNEY FOR Plaintiff	FOR COURT USE ONLY  <b>FILED</b> ALAMEDA COUNTY  JUL 8 2008
Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607	CLERK OF THE SUPERIOR COURT By <u>Cecilia Anchondo</u> Deputy
PLAINTIFF/PETITIONER: Richard Ray and Sally Ray DEFENDANT/RESPONDENT: City of Oakland et al	CASE NUMBER: RG08375364
<b>PROOF OF SERVICE OF SUMMONS</b>	Ref No. or File No.: Ray

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
 SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,  
 RESERVATION OF DAMAGES

3a. Party served:

CITY OF OAKLAND,  
 A MUNICIPAL ORGANIZATION

4. Address where party was served:

1 FRANK OGAWA PLAZA 6TH F  
 OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 2:03 PM I left the documents listed in item 2 with or in the presence of:

BARBARA HARRIS

EMPLOYEE - PUBLIC SERVICE REPRESENTATIVE

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE

PLAINTIFF/PETITIONER:	Richard Ray and Sally Ray	CASE NUMBER:
DEFENDANT/RESPONDENT:	City of Oakland et al	RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

CITY OF OAKLAND,  
A MUNICIPAL ORGANIZATION

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

a. Name: Granville Smith

b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754

c. Telephone Number: 323-526-7300

d. The fee for service was: \$91.52

e. I am:

(3) ☒ registered California process server:

(i) ☒ Independent contractor

(ii) Registration No.: 1014 Expires: 08/13/09

(iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO. REG # 1086, EXPIRES 04/15/10

Form Adopted for Mandatory Use  
Judicial Council of California POS-010  
[Rev. January 1, 2007]

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646886



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NUMBER	FOR COURT USE ONLY	
SHEILA NELSON SBN		415-362-2221	<b>FILED</b> ALAMEDA COUNTY JUL 8 2008 CLERK OF THE SUPERIOR COURT By <u>Cecilia Amador</u> Deputy	
SHEILA GROPPER NELSON, L/O OF		Ref. No. or File No.		
456 MONTGOMERY ST.		Ray		
SUITE 1300				
SAN FRANCISCO CA 94104				
ATTORNEY FOR Plaintiff				
Insert name of court and name of judicial district and branch if any.				
Alameda Oakland - Wiley W. Manuel				
661 Washington St Oakland CA 94607				
SHORT TITLE OF CASE:				
Richard Ray and Sally Ray v City of Oakland et al.				
INVOICE NO.	DATE:	TIME:	DEP./DIV.	CASE NUMBER:
646886	07/25/08	11:15 AM	30	RG08375364

## PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.

ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE; I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
 SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,  
 RESERVATION OF DAMAGES

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED  
 IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE  
 UNITED STATES MAIL AT: HAYWARD, CALIFORNIA, ADDRESSED AS FOLLOWS:

CITY OF OAKLAND,  
 A MUNICIPAL ORGANIZATION

1 FRANK OGAWA PLAZA 6TH F  
 OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.  
 1199 MONTEREY PASS ROAD  
 MONTEREY PARK, CA 91754  
 323-526-7300 FAX 323-526-7377

d. Registered California process server  
 (1) ☒ Employee or ☐ Independent Contractor  
 (2) Registration No. 08-1047  
 (3) County: SAN FRANCISCO  
 (4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

SIGNATURE

Layla Silvestre



POS-010

<b>ATTORNEY OR PARTY WITHOUT ATTORNEY</b> SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221 <b>ATTORNEY FOR Plaintiff</b>	<b>FOR COURT USE ONLY</b>  <b>FILED</b> <b>ALAMEDA COUNTY</b>  JUL 8 2008  CLERK OF THE SUPERIOR COURT By <u>Cecilia Anchondo</u> Deputy
<b>Alameda</b> Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607	
PLAINTIFF/PETITIONER: Richard Ray and Sally Ray DEFENDANT/RESPONDENT: City of Oakland et al	CASE NUMBER: RG08375364
<b>PROOF OF SERVICE OF SUMMONS</b>	Ref No. or File No.: Ray

1. At the time of service I was at least 18 years of age and not a party to this action..

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
SUMMONS, CASE MANAGEMENT, RESERVATION OF DAMAGES, ADR,  
JUDGE ASSIGNMENT

3a. Party served:

ALAMEDA COUNTY

4. Address where party was served:

1221 OAK STREET ROOM 463  
OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 3:00 PM I left the documents listed in item 2 with or in the presence of:

RONDA BAILEY

EMPLOYEE - AGENT

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE

PLAINTIFF/PETITIONER: Richard Ray and Sally Ray  
DEFENDANT/RESPONDENT: City of Oakland et al

CASE NUMBER:  
RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

ALAMEDA COUNTY

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

a. Name: Granville Smith

b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754

c. Telephone Number: 323-526-7300

d. The fee for service was: \$91.52

e. I am:

(3) ☒ registered California process server:

(i) ☒ Independent contractor

(ii) Registration No.: 1014 Expires: 08/13/09

(iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO. REG # 1086. EXPIRES 04/15/10

Form Adopted for Mandatory Use  
Judicial Council of California POS-010  
[Rev. January 1, 2007]

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646896



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 ATTORNEY FOR Plaintiff		TELEPHONE NUMBER 415-362-2221 Ref. No. or File No. Ray	FOR COURT USE ONLY  <b>FILED</b> ALAMEDA COUNTY  JUL 8 2008  CLERK OF THE SUPERIOR COURT By <i>Cecilia Amador</i> Deputy
Insert name of court and name of judicial district and branch if any. Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607			
SHORT TITLE OF CASE: Richard Ray and Sally Ray v City of Oakland et al			
INVOICE NO.	DATE:	TIME:	DEP./DIV.
646896	07/25/08	11:15 AM	30
		CASE NUMBER: RG08375364	

## PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.

ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE, I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
 SUMMONS, CASE MANAGEMENT, RESERVATION OF DAMAGES, ADR,  
 JUDGE ASSIGNMENT

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE UNITED STATES MAIL AT: HAYWARD, CALIFORNIA, ADDRESSED AS FOLLOWS:

ALAMEDA COUNTY

1221 OAK STREET ROOM 463  
 OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.  
 1199 MONTEREY PASS ROAD  
 MONTEREY PARK, CA 91754  
 323-526-7300 FAX 323-526-7377

- d. Registered California process server
- (1) ☒ Employee or ☐ Independent Contractor
  - (2) Registration No. 08-1047
  - (3) County: SAN FRANCISCO
  - (4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

SIGNATURE

*Layla Silvestre*





\*6757255\*

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221 ATTORNEY FOR Plaintiff	FOR COURT USE ONLY <b>FILED</b> ALAMEDA COUNTY JUL 8 2008
Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607	CLERK OF THE SUPERIOR COURT By <u>Cecilia Pacheco</u> Deputy
PLAINTIFF/PETITIONER: Richard Ray and Sally Ray DEFENDANT/RESPONDENT: City of Oakland et al	CASE NUMBER: RG08375364
<b>PROOF OF SERVICE OF SUMMONS</b>	Ref No. or File No.: Ray

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
 SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,  
 RESERVATION OF DAMAGES

3a. Party served:

ALAMEDA COUNTY SHERIFF  
 BY SERVING SERGEANT MARTINEZ

4. Address where party was served:

1401 LAKESIDE DR 7TH FL  
 OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 1:31 PM I left the documents listed in item 2 with or in the presence of:

CYNTHIA VAUGHN

SECRETARY FOR SGT. MARTINEZ

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE

PLAINTIFF/PETITIONER: Richard Ray and Sally Ray  
DEFENDANT/RESPONDENT: City of Oakland et al

CASE NUMBER:  
RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

ALAMEDA COUNTY SHERIFF  
BY SERVING SERGEANT MARTINEZ

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

a. Name: Granville Smith

b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754

c. Telephone Number: 323-526-7300

d. The fee for service was: \$91.52

e. I am:

(3) ☒ registered California process server:

(i) ☒ Independent contractor

(ii) Registration No.: 1014 Expires: 08/13/09

(iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO. REG # 1086, EXPIRES 04/15/10

Form Adopted for Mandatory Use  
Judicial Council of California POS-010  
[Rev. January 1, 2007]

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646890



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NUMBER		FOR COURT USE ONLY	
SHEILA NELSON SBN		415-362-2221		<b>FILED</b> ALAMEDA COUNTY JUL 8 2008 CLERK OF THE SUPERIOR COURT <i>Cecilia Anchondo</i> Deputy	
SHEILA GROPPER NELSON, L/O OF		Ref. No. or File No.			
456 MONTGOMERY ST.		Ray			
SUITE 1300					
SAN FRANCISCO CA 94104					
ATTORNEY FOR Plaintiff					
Insert name of court and name of judicial district and branch if any.					
Alameda Oakland - Wiley W. Manuel					
661 Washington St Oakland CA 94607					
SHORT TITLE OF CASE:					
Richard Ray and Sally Ray v City of Oakland et al					
INVOICE NO.	DATE:	TIME:	DEP./DIV.	CASE NUMBER:	
646890	07/25/08	11:15 AM	30	RG08375364	

## PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.  
ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE, I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH  
SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,  
RESERVATION OF DAMAGES

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED  
IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE  
UNITED STATES MAIL AT: HAYWARD , CALIFORNIA, ADDRESSED AS FOLLOWS:

ALAMEDA COUNTY SHERIFF  
BY SERVING SERGEANT MARTINEZ

1401 LAKESIDE DR 7TH FL  
OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.  
1199 MONTEREY PASS ROAD  
MONTEREY PARK, CA 91754  
323-526-7300 FAX 323-526-7377

- d. Registered California process server  
(1) ☒ Employee or ☐ Independent Contractor  
(2) Registration No. 08-1047  
(3) County: SAN FRANCISCO  
(4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

SIGNATURE

**EXHIBIT C**

**FILED BY FAX**  
ALAMEDA COUNTY  
July 23, 2008  
CLERK OF  
THE SUPERIOR COURT  
By Denise Dalton, Deputy  
CASE NUMBER:  
**RG08375364**

1 JOHN A. RUSSO, City Attorney, SBN 129729  
RANDOLPH W. HALL, Chief Asst. City Atty., SBN 080142  
2 WILLIAM E. SIMMONS, Supervising Trial Atty., SBN 121266  
JENNIFER N. LOGUE, Deputy City Atty., SBN 241910  
3 One Frank H. Ogawa Plaza, 6th Floor  
Oakland, California 94612  
4 Telephone: (510) 238-6524, Fax: (510) 238-6500  
26055:462493

5 Attorneys for Defendants  
6 CITY OF OAKLAND and WAYNE TUCKER

7  
8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF ALAMEDA**  
10 **(UNLIMITED JURISDICTION)**  
11

12 RICHARD RAY, an individual, SALLY RAY,  
an individual, and RICHARD AND SALLY,  
13 husband and wife,

14 Plaintiffs,

15 v.

16 CITY OF OAKLAND, a municipal  
organization, WAYNE TUCKER, Chief of  
17 the City of Oakland Police Department,  
ALAMEDA COUNTY, GREGORY AHM,  
18 ALAMEDA COUNTY SHERIFF DOE  
DEFENDANT 1, an unknown police officer,  
19 DOE DEFENDANT 2 an unknown police  
officer, DOE DEFENDANT 3, an unknown  
20 police officer, DOE 4, an unknown police  
officer, DOES 5 an unknown sheriff, DOE 6  
21 an unknown sheriff, and Does 7 to 75,  
inclusive,

22 Defendant(s).  
23

Case No. RG08-375364

ASSIGNED FOR ALL PURPOSES  
TO HON. KENNETH MARK BURR  
DEPARTMENT 30

**DEFENDANTS CITY OF OAKLAND AND  
WAYNE TUCKER'S ANSWER TO  
COMPLAINT**

24 Defendants CITY OF OAKLAND and WAYNE TUCKER hereby answer,  
25 object, and otherwise respond to the Complaint on file herein as follows.

26 Defendants generally deny each and every allegation contained in said

1 | complaint.

2 | I.

3 | AS A FURTHER, FIRST, SEPARATE AND AFFIRMATIVE DEFENSE,  
4 | defendants allege that the complaint fails to state a cause of action.

5 | II.

6 | AS A FURTHER, SECOND, SEPARATE AND AFFIRMATIVE DEFENSE,  
7 | defendants allege, on information and belief, that plaintiffs did not exercise ordinary care,  
8 | caution, or prudence to avoid the alleged event and/or accident; consequently, the  
9 | subsequent injuries or damages, if any, sustained by plaintiffs were proximately caused by  
10 | and contributed to by plaintiffs' comparative negligence, and any damages they might  
11 | otherwise be entitled to should be proportionately reduced by the degree of plaintiffs'  
12 | negligence.

13 | III.

14 | AS A FURTHER, THIRD, SEPARATE AND AFFIRMATIVE DEFENSE,  
15 | defendants allege that the injuries and damages plaintiffs complain of resulted from the  
16 | acts and/or omissions of others, or acts of God, and without any fault on the part of  
17 | defendants.

18 | IV.

19 | AS A FURTHER, FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE,  
20 | defendants allege that any party or individual who contributed to and/or caused the  
21 | alleged injuries and damages was not acting as its agent or with its knowledge or within  
22 | the course and/or scope of employment with defendant CITY OF OAKLAND.

23 | V.

24 | AS A FURTHER, FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE,  
25 | defendants allege that plaintiffs' claims are barred by all applicable Government Code  
26 | protections and immunities, including, but not limited to, sections 815 through 900. Said

1 sections are pleaded as though fully set forth herein.

2 VI.

3 AS A FURTHER, SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE,  
4 defendants allege that all of the actions of defendants were undertaken in good faith and  
5 with the objectively reasonable belief that such actions were valid, necessary, reasonable,  
6 lawful and constitutionally proper, entitling defendants to the qualified immunity of good  
7 faith.

8 VII.

9 AS A FURTHER, SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE,  
10 defendants allege that, if they in any fashion caused the injuries or damages alleged,  
11 although such liability is expressly denied herein, their acts and/or omissions were  
12 reasonable and privileged.

13 VIII.

14 AS A FURTHER, EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE,  
15 defendants allege, on information and belief, that plaintiffs failed to mitigate damages.

16 IX.

17 AS A FURTHER, NINTH, SEPARATE AND AFFIRMATIVE DEFENSE,  
18 defendants allege that, to the extent that plaintiffs allege or assert matters not contained in  
19 a legally sufficient claim filed by them, this action is barred by the claims requirements set  
20 forth in Government Code Section 905 et seq.

21 X.

22 AS A FURTHER, TENTH, SEPARATE AND AFFIRMATIVE DEFENSE,  
23 defendants allege that this action is barred, under Government Code § 945.6, by plaintiffs'  
24 failure to file their action within six months after denial of their claim by defendants.

25

26



XI.

AS A FURTHER, ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, defendants allege that this action is barred by all applicable statutes of limitations.

XII.

AS A FURTHER, TWELTH, SEPARATE AND AFFIRMATIVE DEFENSE, defendants presently have insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, defenses available. Defendants reserve herein the right to assert additional defenses in the event discovery indicates that they would be appropriate.

PRAYER

WHEREFORE, defendants pray that:

1. Plaintiffs take nothing by their Complaint;
2. Defendants have judgment against Plaintiffs;
3. Defendants be awarded their costs of suit; and
4. For such other and further relief as the Court may deem proper.

Dated: July 23, 2008

JOHN A. RUSSO, City Attorney  
RANDOLPH W. HALL, Assistant City Attorney  
WILLIAM E. SIMMONS, Supervising Trial Attorney  
JENNIFER N. LOGUE, Deputy City Attorney

By: 

Attorneys for Defendants,  
CITY OF OAKLAND and WAYNE TUCKER

**PROOF OF SERVICE**

**Richard Ray, et al. v. City of Oakland, et al.**  
**Alameda County Superior Court No. RG08-375364**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is One Frank H. Ogawa Plaza, 6th Floor, Oakland, California 94612. On the date set forth below, I served the within document:

**DEFENDANTS CITY OF OAKLAND AND WAYNE TUCKER'S ANSWER TO COMPLAINT**

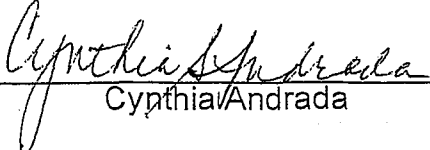
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oakland, California addressed as set forth.
- ☐ by causing personal delivery by \_\_\_\_\_ of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) set forth below.

Sheila Gropper Nelson  
LAW OFFICE OF SHEILA GROPPER NELSON  
456 Montgomery Street, Suite 1700  
San Francisco, CA 94104

I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 23, 2008, at Oakland, California.

  
Cynthia Andrada